

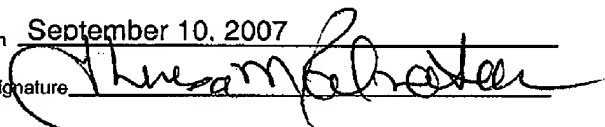
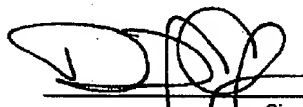
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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		67108-052; Khan 7-54	
<p>CERTIFICATE OF FACSIMILE</p> <p>I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300.</p> <p>on <u>September 10, 2007</u></p> <p>Signature <u></u></p> <p>Typed or printed name <u>Theresa M. Palmateer</u></p>		<p>Application Number</p> <p><u>09/725,437</u></p> <p>Filed</p> <p><u>11/29/2000</u></p> <p>First Named Inventor</p> <p><u>Farooq Ullah Khan</u></p> <p>Art Unit</p> <p><u>2616</u></p> <p>Examiner</p> <p><u>Qureshi, Afsar M.</u></p>	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. <u>37,139</u> Registration number</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		<p> Signature</p> <p><u>David J. Gaskey</u> Typed or printed name</p> <p><u>248-988-8360</u> Telephone number</p> <p><u>September 10, 2007</u> Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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003/005

67108-052
Khan 7-54**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Farooq Ullah Khan
Serial No.: 09/725,437
Filed: 11/29/2000
Examiner: Qureshi, Afsar M.
Group Art Unit: 2616
Title: HYBRID ARQ WITH PARALLEL PACKET TRANSMISSION

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby requests Pre-Appeal Brief Review of the final rejection contained in the Office Action mailed on June 11, 2007 because there is no *prima facie* case of anticipation or obviousness against any of Applicant's claims.

The Examiner rejects Applicant's claim 1 under 35 U.S.C. §102 as being anticipated by the *Ratzel* reference (U.S. Patent No. 6,873,615). The Examiner contends that a packet identifier in the *Ratzel* reference corresponds to Applicant's "encoder packet identifier that corresponds to at least a number of parallel channels in the transmission system." The *Ratzel* reference does not include such an identifier. The Examiner relies upon the packet identifier field 44 (PKT_ID) of the *Ratzel* reference as being such a packet identifier. The PKT_ID of the *Ratzel* reference, however, has nothing that corresponds to a number of parallel channels in the transmission system. Instead, the PKT_ID of the *Ratzel* reference indicates what packet type is sent by a base station. Column 3, lines 27-34, are instructive.

As shown in FIG. 5, the BCAST packet 18 is a packet type sent only by the base station 36 and includes global information describing the system configuration and status of the network 42. The first byte consists of a packet identifier field 44

67108-052
Khan 7-54

(PKT_ID), (for this packet type, the packet identifier field is set equal to eleven), to distinguish it from other kinds of packets 14,

There is no other description of the PKT_ID of the *Ratzel* reference that indicates that it does anything other than identify a packet "to distinguish it from other kinds of packets." There is nothing in the *Ratzel* reference that in any way indicates that the PKT_ID of that reference has anything that would justify interpreting it as corresponding to at least a number of parallel channels in a transmission system. Therefore, the reference does not disclose what the Examiner contends and there is no *prima facie* case of anticipation.

There is no *prima facie* case of obviousness against any of claims 2-9 or 11-13 because the Examiner relies upon the *Ratzel* reference when making that rejection. Because the *Ratzel* reference does not teach what the Examiner contends, even if the Examiner's proposed combination could be made, the result does not establish a *prima facie* case of obviousness. There is nothing in the *Ratzel* reference that corresponds to the claimed encoder packet identifier.

The rejections based upon the *Ratzel* reference must be withdrawn.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

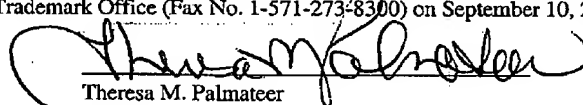
David J. Gaskey
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Dated: September 10, 2007

67108-052
Khan 7-54

CERTIFICATE OF FACSIMILE

I hereby certify that this Pre-Appeal Brief Request for Review relative to Application Serial No. 09/725,437 is being facsimile transmitted to the Patent and Trademark Office (Fax No. 1-571-273-8300) on September 10, 2007.


Theresa M. Palmateer

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